

6164. Misbranding of clams. U. S. * * * v. Stockton Canning Co., a corporation. Plea of nolo contendere. Fine, \$75. (F. & D. No. 8104. I. S. Nos. 2812-m, 2813-m.)

On May 7, 1917, the United States attorney for the District of Maine, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against the Stockton Canning Co., a corporation, Eastport, Me., alleging shipment by said company, in violation of the Food and Drugs Act as amended, on or about September 23, 1916, and September 18, 1916, from the State of Maine into the State of Massachusetts, of quantities of articles labeled in part, "Gorton's Silver Shell Clams, average net weight 8 ounces," and "North Shore Brand Clams, 5 ounces net," which were misbranded.

Examination of samples of the articles by the Bureau of Chemistry of this department showed the following results:

Shipment labeled "average net weight 8 ounces."

Gross.	Tare.	Net.
Ounces.	Ounces.	Ounces.
10.43	3.26	7.17
10.68	3.26	7.42
10.83	3.10	7.73
10.07	3.30	6.77
10.46	3.22	7.24
10.06	3.24	6.82
10.70	3.19	7.51
10.83	3.08	7.75
9.78	3.20	6.58
10.46	3.20	7.26
10.58	3.21	7.37
10.77	3.21	7.56

Average net weight (ounces)..... 7.27
Average shortage (per cent)..... 9.1

Shipment labeled "5 ounces net."

Gross.	Tare.	Net.
Ounces.	Ounces.	Ounces.
7.21	2.39	4.82
6.76	2.42	4.34
6.97	2.42	4.55
6.90	2.42	4.48
6.98	2.39	4.59
6.97	2.42	4.55
6.42	2.41	4.01
7.23	2.36	4.87
7.24	2.35	4.89
6.85	2.47	4.38
7.11	2.40	4.71
6.94	2.53	4.41

Average net weight (ounces)..... 4.55
Average shortage (per cent)..... 9.00

Misbranding of the article in each shipment was alleged in the information for the reason that it was food in package form, and the quantity of the contents was not plainly and conspicuously marked on the outside of the package. Misbranding of the article in the shipment on September 18, 1916, was alleged in substance for the further reason that the statement, to wit, "5 Ounces Net," borne on the label attached to the cans, regarding the article, was false and misleading in that it represented that each can contained five ounces net of the article, whereas, in truth and in fact, it did not, but contained a less amount.

On February 5, 1918, the defendant company entered a plea of nolo contendere to the information, and the court imposed a fine of \$75.

CARL VROOMAN,
Acting Secretary of Agriculture.